

**§ 106-129. Foods deemed to be adulterated.**

A food shall be deemed to be adulterated:

- (1) a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this paragraph if the quantity of such substance in such food does not ordinarily render it injurious to health; or
- b.
  1. If it bears or contains any added poisonous or added deleterious substance, other than one which is
    - I. A pesticide chemical in or on a raw agricultural commodity;
    - II. A food additive; or
    - III. A color additive, which is unsafe within the meaning of G.S. 106-132; or
  2. If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of G.S. 106-132; or
  3. If it is or it bears or contains any food additive which is unsafe within the meaning of G.S. 106-132;provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under G.S. 106-132 of this Article, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of G.S. 106-132 and clause 3 of this section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or
- c. If it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or
- d. If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or
- e. If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or
- f. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
- g. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to G.S. 106-132 of this Article; or
- h. If a retail or wholesale establishment has added sulfiting agents, including sulfur dioxide, sodium sulfite, sodium or potassium

- bisulfite, and sodium or potassium metabisulfite, separately or in combination, to fresh fruits and fresh vegetables intended for retail sale as fresh food products.
- (2)
    - a. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or
    - b. If any substance has been substituted wholly or in part therefor; or
    - c. If damage or inferiority has been concealed in any manner; or
    - d. If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.
  - (3) If it is confectionery, and:
    - a. Has partially or completely imbedded therein any nonnutritive object: Provided, that this clause shall not apply in the case of any nonnutritive object if, in the judgment of the Board of Agriculture as provided by regulations, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or
    - b. Bears or contains more than five percent (5%) alcohol by volume. Confectionery that contains more than five-tenths of one percent (0.5%) alcohol by volume shall conspicuously bear a label indicating alcohol content; or
    - c. Bears or contains any nonnutritive substance: Provided, that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of this Article; and provided further, that the Board may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue regulations allowing or prohibiting the use of particular nonnutritive substances.
  - (4) If it is or bears or contains any color additive which is unsafe within the meaning of G.S. 106-132. (1939, c. 320, s. 10; 1975, c. 614, ss. 13-16; 1985, c. 399; 2011-26, s. 1.)